

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/09/2002

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.35569 of 2002

Kassimia Dawood Middle School
rep. by its Manager
REMS Abdul Hameed
Kassimia Street
Rajaghiri-614207. .. Petitioner

-Vs-

The General Manager
BSNL
Thanjavur .. Respondent

PRAYER: This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus as stated within.

For Petitioner : No appearance

For Respondent : ---

:ORDER

The petitioner-school is recognised under the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. Even though the petitionerschool registered for installation of a new telephone vide registration No.1168 on 1.5.1999 in Papanasam Exchange, the respondent refused to provide telephone facility to the petitioner-school on the ground that the Manager of the School is in default of payment of telephone bill. Hence, the above writ petition for issue of a writ of Mandamus to direct the respondent to forthwith consider the petitioner's demand for installation of a telephone in their school premises registered under registration No.1168 dated 1.5.1999.

2. In this regard, the respondent places reliance on Rule 443 of the Indian Telegraph Rules, 1951, which reads as follows:

"Rule:443 .. Default of payment: If, on or before the due date, the rent or other charges in respect of the telephone service provided are not paid by the subscriber in accordance with these rules, or bills for charges in respect of calls (local and trunk) or phonograms or other dues from the subscriber are not duly paid by him, any telephone or telephones or any telex service rented by him may be disconnected without any notice. The telephone or telephones or the telex so disconnected may, if the Telegraph Authority thinks fit, be

restored, if the defaulting subscriber pays the outstanding dues and the reconnection fee together with the rental for such portion of the intervening period (during which the telephone or telex remains disconnected) as may be prescribed by the Telegraph Authority from time to time. The subscriber shall pay all the above charges within such period as may be prescribed by the Telegraph Authority from time to time."

3. Interpreting Rule 443 of the Indian Telegraph Rules, 1951, and rejecting the objection made by the respondent in disconnecting the telephone of a subscriber due to the telephone dues from another subscriber, who is closely related, Justice B.Subhashan Reddy, as he then was, in Y.PRIDHVI KUMAR Vs. GENERAL MANAGER, TELECOM DISTRICT, HYDERABAD, reported in AIR 1993 A.P. 131 as held thus:

"2. ... I apprehend that I cannot accede to this contention of the learned standing counsel for the Central Government for the simple reason that the petitioner and his mother are having two different telephones and as citizens of India, they are entitled to be subscribers of telephones independently and merely because there is a relationship of mother and son and as the mother has defaulted in payment of amounts to the respondent, no liability can be fastened to the petitioner and neither the statute nor the rules framed thereunder empower the authorities to disconnect the telephone for the default committed by the petitioners mother. Even if any statute makes such an imposition, the same would be arbitrary and unreasonable and be a clear infraction of the fundamental rights guaranteed under Article 14 of the Constitution of India."

4. Following the decision in Y.PRIDHVI KUMAR Vs. GENERAL MANAGER, TELECOM DISTRICT, HYDERABAD, reported in AIR 1993 A.P. 131, Justice P. Sathasivam in KRISHNAN Vs. M/s.BSNL-CHENNAI TELEPHONES reported in (20 02) I MLJ 512 held that the respondent cannot disconnect the telephone of a subscriber merely because another subscriber, who is related, is in default of payment of telephone bills of another telephone.

5. Applying the ratio laid down in Y.PRIDHVI KUMAR Vs. GENERAL MANAGER, TELECOM DISTRICT, HYDERABAD, reported in AIR 1993 A.P. 131 and KRISHNAN Vs. M/s.BSNL-CHENNAI TELEPHONES reported in (2002) I MLJ 512, I am obliged to direct the respondent to consider the petitioner's demand for installation of a telephone in their School premises registered under Registration No.1168 dated 1.5.1999 within thirty days from the date of receipt of copy of this order.

This writ petition is ordered accordingly. No costs.

16.9.2002

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To:

The General Manager
BSNL
Thanjavur

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